

promulgated by the Council on Environmental Quality (CEQ) (43 FR 55978, November 29, 1978). These regulations recognize that contractor assistance is an integral part of Federal agency NEPA documentation, and they provide that in order to avoid a conflict of interest, contractors shall submit a disclosure statement showing that they have no financial or other interest in the project being evaluated. The mitigation procedures used in this procurement to insure that no conflict of interest will in fact exist substantially exceed the CEQ requirement.

(2) Both contracts awarded under this procurement will include the Organizational Conflicts of Interest Special Clause (41 CFR 9-1.5408-2(b)), which will apply to both prime and subcontractors. The primary purpose of this clause is to aid in ensuring that the Contractor is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(3) The RFP provides that a principal reason for awarding more than one contract under this procurement is to provide a mechanism for avoiding the situation where a conflict of interest would actually exist. Prior to the assignment of a task, the contractor will submit a statement as to whether performing that task for the Government would create a conflict because of work performed for the company in question under a past, present, or currently planned relationship. The contractor will also be required to state whether performing that task would require them to review work they had previously performed for the Government. Similar information will be required from all subcontractors. DOE will independently review that statement, and if a conflict is found the contractor will be disqualified and that task will be assigned to another contractor or will be completed with other resources at DOE's disposal. In the case of a prohibition by rule for a class of powerplants or MFBIs, DOE will prior to assignment of a task establish that no conflict exist for any facility included in the class.

(4) As stated in the RFP, all work performed by the contractors under this procurement will be independently reviewed by DOE. All final decisions will be made by the Government, and the contractors will play an advisory role only. In addition, all pertinent

contractor analysis will become a part of the public record of the particular action in question and thus will be subject to close third-party scrutiny for the validity of the data and technical findings presented.

(5) Similarly, any work which one of the contractors might perform for a private client and which is submitted by that company as part of an action under the Act will also become part of the public record and subject to review and comment. Furthermore, any information so developed for and submitted by a company would be independently evaluated and verified by DOE (either by the other support contractor secured by this procurement or by another resource) before it is used in support of a Government decision.

Determination

In light of the above findings and mitigation, I hereby determine in accordance with 41 CFR 9-1.5409(a)(3) that award of these contracts would be in the best interests of the United States.

Dated August 5, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory
Administration.

[FR Doc. 80-24596 Filed 8-13-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1570-3]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption

AGENCY: Environmental Protection
Agency.

ACTION: Waiver of Federal preemption.

SUMMARY: This decision grants California a waiver of Federal preemption to enforce amendments to its 1979 and 1980 model year Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

ADDRESSES: Information relevant to this decision is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. (202) 755-2808. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT:
Jerry Schwartz, Attorney/Advisor,
Manufacturers Operations Division,
(EM-340), U.S. Environmental Protection
Agency, Washington, D.C. 20460, (202)
472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),¹ I am granting the State of California a waiver of Federal preemption to enforce the following enforcement procedures:

(1) Amendments to Assembly-Line Test procedures which California has adopted for (a) the 1979 model year, as set forth in section 2057 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted December 19, 1977, as amended May 9, 1979,² and (b) the 1980 model year, as set forth in section 2058 of title 12 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted November 16, 1978, as amended January 30, 1979 and May 9, 1979.³

(2) California's New Vehicle Compliance Testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Vehicle Compliance Test Procedures" adopted June 24, 1976, as amended May 9, 1979, for 1979 and subsequent model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

Under section 209(b)(1) of the Act, when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to standards for which a waiver has

¹ 42 U.S.C. 7543(b) (1977).

² These amended procedures are applicable to 1979 model year gasoline-powered passenger cars, gasoline- and diesel-powered light-duty trucks, and gasoline- and diesel-powered medium-duty vehicles.

³ These amended procedures are applicable to 1980 model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles. California has not requested a waiver of Federal preemption for its unamended 1980 model year Assembly-Line Test procedures, but the unamended 1980 procedures fall within the scope of the waiver I previously granted for the 1979 model year procedures. 44 FR 7807 (February 27, 1979). I have reached this conclusion because the unamended 1980 procedures are identical to the unamended 1979 procedures; thus, they are not new "initially adopted" standards or enforcement procedures, they do not undermine California's protectiveness determination, and they do not cause any inconsistency with section 202(a) of the Act. See 44 FR 61096 (October 23, 1979). No party presented evidence as part of these proceedings which would tend to contradict this conclusion.

already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the accompanying enforcement procedures are not consistent with section 202(a) of the Act. With regard to the first finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.⁴ With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures impose inconsistent certification requirements.

On the basis of the record before me, I cannot make the findings required for a denial of the waiver under section 209(b)(1) with respect to California's 1979 and 1980 model year Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

II. Background

A. Amendments to Assembly-Line Test Procedures

The California Air Resources Board (CARB) adopted Assembly-Line Test (ALT) procedures (one of two separate programs which the amendments under consideration in this decision affect) for 1979 and 1980 model year passenger cars, light-duty trucks and medium-duty vehicles on February 16, 1978, and November 16, 1978, respectively. These ALT procedures require each manufacturer to conduct a functional inspection and a steady-state emissions test of every vehicle it produces for sale in California, and to perform quality audit tests (according to the full California exhaust emission test procedures) on at least two percent of its California production.

California received a waiver of Federal preemption to enforce its 1979 ALT procedures on February 2, 1979.⁵ On May 9, 1979, CARB adopted amendments to both the 1979 and 1980 ALT procedures that form part of the basis of this waiver request.⁶ The 1979 ALT amendments contained several minor changes which no party contested in these waiver proceedings and an amendment regarding Quality Audit testing at remote facilities which several parties did contest.

California also incorporated these changes into its 1980 ALT procedures. These amendments along with some additional minor changes CARB adopted on January 30, 1979 (also uncontested in these waiver proceedings), are the changes relating to the 1980 model year vehicles for which California has requested a waiver.⁷

The Quality Audit testing change at issue pertains to test procedures performed at remote facilities.⁸ Under the unamended 1979 procedure, California permitted manufacturers to perform a "Pre-Delivery Inspection" (PDI) prior to the actual emissions testing to correct any shipping-related defects that may have occurred during shipment to the remote facility.⁹ Under the amendments, a manufacturer may correct shipping-related damage only after the initial Quality Audit test of the vehicle, except for "compelling

reasons".¹⁰ The manufacturer otherwise may not conduct any PDI activity prior to the emissions test. If the manufacturer performs a retest, the manufacturer may petition the Executive Officer to substitute the after-repair results for the original test results.¹¹ A manufacturer may perform PDI on Quality Audit test cars prior to initial test without petitioning the Executive Officer only if the manufacturer performs the same PDI on 100% of its production, subsequent to consignment for shipping from the assembly line.

CARB adopted these contested Quality Audit amendments to prevent a manufacturer from correcting previously undetected manufacturing defects along with shipping-related defects before Quality Audit testing, and thereby to ensure that a manufacturer will test vehicles in the same condition in which they arrive at the dealership.¹² CARB further stated that neither CARB nor the manufacturer has any real assurance that, before delivering a vehicle to a consumer, dealership personnel actually perform a PDI identical to that performed by the manufacturer at the Quality Audit test site.¹³

B. Amendments to New Vehicle Compliance Test Procedures

On June 24, 1978, California adopted its New Vehicle Compliance Test procedures (the other program which amendments under consideration in this decision affect), which, along with subsequent amendments, received waivers of Federal preemption.¹⁴ The 1979 and subsequent model year amendments under consideration in these proceedings include the following provisions:

(1) A prohibition against pre-test mileage accumulation or modifications, and adjustments or special preparation

⁴ 44 FR 7807 (February 27, 1979).

⁵ The waiver request was contained in a letter from Mr. Thomas C. Austin, Executive Officer (CARB), to Administrator, Environmental Protection Agency (EPA), dated July 5, 1979. EPA held a public hearing on this request on October 24, 1979. At the same time, a waiver request for California's optional 100,000-mile emission standards and accompanying enforcement procedures applicable to 1980 and subsequent model year passenger cars, light-duty trucks and medium-duty vehicles was considered. I granted the waiver request for the 100,000-mile option in a decision published on February 25, 1980 (45 FR 12291).

⁶ All of the amendments to both the 1979 and 1980 ALT procedures were before the Presiding Officer for his consideration at the October 24, 1979 waiver hearing.

⁷ Under California's regulations, manufacturers have the option of performing their Quality Audit tests at either the end of their assembly lines, or at a "remote facility" away from the assembly line.

⁸ PDI is any procedure a manufacturer may instruct its dealers to perform to identify and correct a variety of defects before the dealers actually deliver the vehicles to consumers. CARB's 1979 model year regulations initially permitted a manufacturer to perform its PDI procedures on Quality Audit vehicles shipped to remote facilities for testing because those procedures presumably would be representative of the repairs its dealers actually would perform to correct shipping-related defects on vehicles delivered to consumers. As a result, the emissions performance of the vehicles on which a manufacturer would conduct Quality Audit testing after performing PDI presumably would be representative of the emissions performance of the vehicles its dealers ultimately would deliver to consumers for actual use.

⁹ Compelling reasons are "that the vehicle is not testable, or is not reasonably operative, or is not safe to drive, or that damage to the vehicle would be likely if the vehicle were tested". See California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, p. 11.

¹⁰ The Executive Officer must respond to the petition within 10 days. *Id.*

¹¹ April 5, 1979 CARB Staff Report, "Public Hearing to Consider Proposed Changes in the Regulations of the Air Resources Board Regarding Predelivery Inspection and Compliance Test Evaluation," 4 (hereinafter "Staff Report").

¹² Staff Report, 6.

¹³ 43 FR 9344 (March 7, 1978) (pertaining to 1978-1982 model year medium-duty vehicles, diesel-powered light-duty trucks and 1979-1982 model year gasoline-powered light-duty trucks); 43 FR 15490 (April 13, 1978) (pertaining to 1983 and later model year light-duty trucks and medium-duty vehicles); 43 FR 25729 (June 14, 1978) (pertaining to 1979 model year gasoline-powered passenger cars and 1980 and later year gasoline- and diesel-powered passenger cars.)

¹⁴ 43 FR 9344, 9345, 9346 (March 7, 1978).

or maintenance, unless the manufacturer first procures written consent from the Executive Officer. The Executive Officer will not unreasonably withhold consent where the adjustments are necessary "to render the vehicle testable and reasonably operative."

(2) A manufacturer may perform "Specific, Special Maintenance" (SSM) necessary to restore test vehicles to their "natural condition" ¹⁵ Only if it has submitted an advance written request to the Executive Officer, and he approves the request.

(3) A manufacturer may inspect for and correct shipping-related damage or maladjustment only after it has conducted an initial emissions test of the vehicle, except where 100% of the manufacturer's production receives the same inspections or corrections. After the initial test, the manufacturer may request permission to correct shipping-related damages and to retest the vehicle. If it receives this permission, the manufacturer then may substitute its retest results for the original test results. This provision parallels the Assembly-Line test procedure amendment.

(4) The manufacturer must supply any unique specialty hardware and personnel necessary to perform the test.

(5) Under the unamended procedure, when the Executive Officer evaluated the test vehicles, if "no decision" was reached after 20 vehicles, he could not make a "pass" or a "fail" decision, and he did not have the authority to test any additional vehicles to give him an adequate basis for reaching a "pass" or "fail" decision. The amendments allow him to select 10 additional vehicles for testing. If the average emissions of the 30 vehicles tested exceed or are less than any of the exhaust emission standards, the Executive Officer may render a "fail" or "pass" decision, respectively.

III. Discussion

A. Public Health and Welfare

Test procedures like the California Assembly-Line Test procedures and New Vehicle Compliance Test procedures are "accompanying enforcement procedures" under section 209(b)(1) of the Act. ¹⁶ The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

All exhaust emission standards to be enforced by the procedures under consideration here have received

waivers of Federal preemption which are still in effect. ¹⁷ The public record contains no plausible evidence that the proposed Assembly-Line Test procedures or New Vehicle Compliance Test procedures reduce the protectiveness of these standards. ¹⁸ In fact, CARB testified that the amended PDI procedures are slightly more stringent than the current procedures. ¹⁹ With regard to the amended New Vehicle Compliance Test evaluation procedures, CARB, ²⁰ the Motor Vehicle Manufacturers Association (MVMA) ²¹ Ford Motor Company (Ford), ²² and General Motors Corporation (GM) ²³ agreed that the amended procedure is slightly more stringent than the current procedure. Accordingly, California did not need to make any additional public health and welfare determinations in conjunction with these waiver requests. Thus, I cannot find a basis for denying the waiver on this issue.

B. Consistency

Under section 209(b)(1)(C), I must grant a California waiver request unless I find that California's accompanying enforcement procedures are not consistent with section 202(a) of the Act. Section 202(a) states, in part, that any regulation promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period."

1. *Lead Time and Technology.*—With regard to the PDI rule for the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures, Ford contended that the definition of the

compelling reasons exception is too vague, ²⁴ making it impossible to determine whether compliance with the proposed procedures is technically feasible. ²⁵ GM opposed granting the waiver, stating that to continue performing PDI under the proposed procedure would necessitate the establishment of its own PDI center or centers in California, and that the amendment does not afford adequate lead time to consider this decision. ²⁶ GM also contended that the compelling reasons exception was too vague and lacked objective criteria it could depend on and, thus, compliance with the rule would not be feasible when lead time is considered. ²⁷ Chrysler testified that it would experience lead time problems in performing any engineering modifications the new procedures may require, and therefore only favored granting the waiver if the effective date were changed to the 1981 model year. ²⁸ American Motors (AM), addressing its remarks only to the New Vehicle Compliance Test procedures, also expressed lead time concerns by stating that the amendments established a new test procedure. AM stated that manufacturers must receive lead time to facilitate compliance with this new procedure prior to the effective date of the amendments. ²⁹ AM also was concerned that the New Vehicle Compliance Test procedures did not include a corresponding compelling reasons exception. ³⁰

Finally, CARB testified that no lead time is necessary, because the changes are not new requirements. CARB explained that the changes are simply intended to permit more accurate checks on assembly line quality, thus ensuring

¹⁷ 43 FR 25729 (June 14, 1978) (pertaining to 1980 and subsequent model year passenger cars); 43 FR 1829 (January 12, 1978) (pertaining to 1979-1982 light-duty trucks and medium-duty vehicles); and 43 FR 15490 (April 13, 1978) (pertaining to 1983 and subsequent model year light-duty trucks and medium-duty vehicles).

¹⁸ The Motor Vehicle Manufacturers Association (MVMA) testified that the PDI rule would adversely affect the enforcement procedures as they relate to the protectiveness of the standards. MVMA presented no evidence to support this claim, however, nor did it explain how this result would occur. Transcript of Public Hearing on California Waiver Request, 71 (October 24, 1979) (hereinafter "Tr.").

¹⁹ Tr. 15.

²⁰ Tr. 10.

²¹ Transcript of California Air Resources Board Hearing held on April 5, 1979, to consider these amendments, 102 (hereinafter "CARB Hearing Tr.") The MVMA expressed concern that the increased stringency would result in the failure of vehicles that would otherwise actually have passed.

²² CARB Hearing Tr. 166. Ford expressed concerns similar to MVMA's regarding increased stringency.

²³ CARB Hearing Tr. 121.

²⁴ Although the New Vehicle Compliance Test procedures do not use the term "compelling reasons", the procedures provide that the Executive Officer will allow mileage accumulation, modifications, adjustments, or special preparation or maintenance where such action is needed to "render the vehicle testable and reasonably operative." See California New Vehicle Compliance Test Procedures, pp. 1-2. Additionally, CARB testified that the Executive Officer may permit SSM for reasons covered by the compelling reasons exception. See Tr. 27. For purposes of brevity, I will refer to these provisions in the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures as the "compelling reasons exception," unless indicated otherwise.

²⁵ Tr. 92.

²⁶ Tr. 103-104, 111. In the alternative, GM suggested granting the waiver, while advancing the effective date to accommodate GM's lead time problem. See Tr. 108.

²⁷ Tr. 92.

²⁸ Tr. 161.

²⁹ Tr. 184.

³⁰ Letter from Mr. William C. Jones, Manager, Vehicles Emissions and Fuel Economy Standards, AM, to Charles N. Freed, Director, Manufacturers Operations Division, EPA (November 20, 1979). But see footnote 24.

¹⁵ E.g., to eliminate unnatural amounts of fuel vapor or carbon. California New Vehicle Compliance Test Procedures, p. 2.

¹⁶ 42 FR 3192, 3194 (January 17, 1977).

that the vehicles actually tested under the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures will be representative of vehicles leaving the assembly line.³¹ As to the vagueness objection, CARB stated that the exceptions permitting PDI are sufficiently clear and specific, and that they adequately implement the intent of CARB's regulations by providing examples that show PDI is not allowed for the correction of manufacturing defects.³² Moreover, CARB expressed its willingness to work with the manufacturers on a case-by-case basis to create a list of compelling reasons agreeable to both parties.³³

The manufacturers' testimony also points out the deficiencies in their arguments regarding lead time and technology. Ford testified that it has already implemented the PDI rule, and it has had no greater difficulty complying with the emission standards.³⁴ GM testified that it already subjects every vehicle shipped to California to a thorough end-of-the-line inspection that, to some extent, is more thorough than the PDI performed by dealers.³⁵ Since GM performs this check on 100% of its California vehicles, it still may perform the check under the amended procedures. It did indicate, however, that the "key issue" involved the shipping-related defects that may occur after the vehicles leave the assembly line, because the end-of-assembly line check obviously cannot correct those problems.³⁶ The amended PDI procedure specifically addresses these shipping-related problems by permitting PDI to correct them after the manufacturer performs the initial test. Thus, GM apparently is already functioning successfully using procedures that it still may ultimately employ under the contested amendments.

GM also testified that it was considering constructing its own PDI center or centers in California to perform PDI on 100% of its California production. It has not yet decided whether it will construct any centers; therefore, any claims regarding lead time problems it may encounter in employing such a center are merely

speculative.³⁷ AM testified that its lead time concerns would be somewhat vitiated if CARB included the compelling reasons exceptions in the New Vehicle Compliance Test procedures.³⁸ CARB had already testified at the October 24, 1979, EPA hearing that the substance of the exception is included in those procedures.³⁹

With regard to the proposed changes in the evaluation of test results obtained from the New Vehicle Compliance Test procedure, if tests of 20 vehicles do not result in a "pass" or "fail" decision, the MVMA and several manufacturers testified that the increased stringency of the amended procedure may result in the failure of vehicles that would otherwise pass.⁴⁰ CARB testified, however, that the proposed evaluation procedures were only slightly more stringent than the present procedures.⁴¹ Thus, the proposed changes are not a new requirement; they simply facilitate the capabilities of both the Assembly-Line Test and the New Vehicle Compliance Test procedures to ensure that production vehicles actually meet California's emission standards.

In light of the above discussion, I cannot conclude that manufacturers cannot develop and apply the requisite technology within the available lead time in order to achieve compliance with the California standards under the proposed Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

2. Cost of Compliance.—With regard to the cost of compliance, GM testified that compliance with the proposed procedures might require the construction of its own PDI center or centers, which, because of GM's high volume of sales, would involve substantial costs.⁴² Additionally, GM asserted that the burden of possible retests would also be very disruptive of manufacturing and impose a significant cost penalty, although it did not provide estimates of such costs.⁴³ AM testified that the additional personnel, equipment, and possible expansion of existing facilities that would be necessary to comply with the procedures would be costly. AM failed to provide estimates of the costs

involved.⁴⁴ AM, also stated that administrative costs due to the possible double testing under the retest provision would be burdensome.⁴⁵

Finally, CARB testified that under the Quality Audit Assembly-Line Test procedures, the PDI rule only applies to vehicles that have been shipped to remote facilities.⁴⁶ This is only a small percentage of total production; therefore, CARB contended that the potential additional costs manufacturers would incur in retesting these vehicles also would be limited. Moreover, a manufacturer may retest a vehicle only if it has corrected a shipping-related defect, and CARB indicated that it did not believe that there were many vehicles in that category. GM's projected costs for construction of its own PDI center or centers are uncertain, because GM has not actually decided to proceed with construction.⁴⁷ I therefore cannot find that the cost of compliance with any or all of the amendments at issue is so excessive as to warrant a denial of the waiver on these grounds.

Other Objections to Granting the Waiver. Ford and GM testified that their dealers are obligated by contract and specifically reimbursed to perform a thorough PDI. Additionally, they are subject to legal liability under section 11705 of the California code if they fail to do so. Ford⁴⁸ and GM⁴⁹ also introduced evidence intended to indicate that their dealers were complying with their obligations. Chrysler,⁵⁰ GM,⁵¹ Ford⁵² and MVMA⁵³ contended that testing vehicles without PDI constituted testing at an "intermediate" step, and that since the condition of the vehicle as received by the consumer is the crucial consideration, a manufacturer should conduct the tests after it performs any PDI procedure similar to that which the dealer will perform.

CARB, however, introduced evidence indicating that the manufacturers' PDI

³¹ Tr. 17-18.

³² Letter from Mr. K. D. Drachand, Acting Chief, Mobile Source Control Division, CARB, to Mr. C. N. Freed, Director, Manufacturers Operations Division, EPA (November 20, 1979) (hereinafter "CARB Letter") p.4.

³³ Tr. 201.

³⁴ Tr. 98.

³⁵ Tr. 112-113. GM has also tested engine families under the proposed New Vehicle Compliance Test procedures, and they have passed. See Tr. 117.

³⁶ Tr. 114.

³⁷ Tr. 115. GM may still correct defects by showing they are shipping related.

³⁸ Tr. 191.

³⁹ See footnote 24.

⁴⁰ CARB hearing Tr. 102, 121, 166.

⁴¹ Tr. 15. See Staff Report at 15-17 for CARB's analysis of the risk of wrongful failure under the proposed New Vehicle Compliance Test evaluation procedures.

⁴² Tr. 103-105.

⁴³ Tr. 122, 131.

⁴⁴ Tr. 184.

⁴⁵ CARB Hearing Tr. 150.

⁴⁶ Tr. 206. Under both the original and amended procedures manufacturers are not permitted to perform PDI on vehicles undergoing Quality Audit tests on the manufacturers' premises, except in limited circumstances.

⁴⁷ Tr. 115, 145.

⁴⁸ Tr. 76 and Letter from Mr. Roger E. Maugh, Assistant Director Automobile Emissions Office, Environmental and Safety Engineering Staff (Ford) to Mr. Charles N. Freed, Director Mobile Sources Enforcement Division, EPA (August 24, 1979).

⁴⁹ Tr. 103, 107.

⁵⁰ Tr. 159.

⁵¹ CARB Hearing Tr. 115.

⁵² CARB Hearing Tr. 162.

⁵³ Tr. 66.

instructions were vague⁵⁴ and that dealers were not completely performing their PDI obligations.⁵⁵ More importantly, on occasion manufacturers can use PDI to correct production defects instead of only shipping-related defects as intended by the amended regulations.⁵⁶ The PDI rule, therefore, is not a new legal obligation, but simply a device to ensure that the manufacturer produces vehicles that meet the standards when they leave the assembly line. This is the point where the manufacturer relinquishes physical control over the condition of its vehicles.⁵⁷ The PDI rule simply fixes responsibility for emissions control with the manufacturer.

GM objected to the provision requiring the manufacturers to supply any personnel and unique specialty hardware that may be necessary to perform the tests. GM stated that the requirement was unnecessary since the manufacturers were already supplying them.⁵⁸

The Act does not authorize me to deny California a waiver on the grounds supplied in these other objections. The decision on such matters of public policy is properly left to California's judgment.⁵⁹

IV. Finding and Decision

Having given due consideration to the public hearing record of October 24, 1979, all material submitted for the record, and other relevant information, I find that I cannot make the determinations required for a denial of the waiver under section 209(b) of the Act, and therefore I hereby waive application of section 209(a) of the Act to the State of California with respect to the following enforcement procedures:

(1)(a) Amendments to the 1979 model year Assembly-Line Test procedures set forth in section 2057 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted December 19, 1977, as amended May 9, 1979, for 1979 model year gasoline-

powered passenger cars, gasoline- and diesel-powered light-duty trucks, and gasoline- and diesel-powered medium-duty vehicles.

The unamended 1980 model year Assembly-Line Test procedures fall within the scope of the waiver I previously granted for the unamended 1979 procedures because the unamended 1980 procedures are identical to the 1979 procedures, and therefore they do not: (1) undermine California's determinations that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal Standard, nor (2) cause California's requirements to be inconsistent with section 202(a) of the Act.

(b) The amendments to the 1980 model year Assembly-Line Test procedures set forth in section 2058 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," adopted November 16, 1978, as amended January 30, 1979, and May 9, 1979. The procedures are applicable for 1980 model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

(2) California's New Vehicle Compliance Testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Vehicle Compliance Test Procedures" adopted June 24, 1976, as amended May 9, 1979, for 1979 and subsequent model years gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Dated: August 8, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-24557 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1570-4]

California State Motor Vehicle Pollution Control Standards; Amendments Within Previous Waivers of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted Assembly-Line Test procedures for various classes of new motor vehicles, for the 1981 model year. The 1981 procedures are essentially the same as those for the 1980 model year. The few changes which CARB has adopted are minor in nature. I find these changes to be included within the scope of previously granted waivers of Federal preemption and the accompanying waiver that I am granting today. Since the changes are included within these waivers, a public hearing to consider them is necessary. However, if any party asserts a *bona fide* objection to these findings, a public hearing will be held to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings.

DATES: Any *bona fide* objection to the findings in this notice must be filed on or before September 15, 1980; otherwise, at the expiration of this 30-day period these findings will be deemed final. Upon the receipt of any timely objection a public hearing will be scheduled and announced in a subsequent Federal Register notice.

ADDRESS: Any *bona fide* objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division, (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Copies of the above standards and procedures at issue in this notice, as well as those documents used in arriving at this decision, are available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Manufacturers Operations Division, (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460. (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 209(a) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7543(a), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard

⁵⁴ Tr. 209. See CARB Letter, Attachment 'F' "1979 Oldsmobile Pre-Delivery Inspection Procedure Check Sheet".

⁵⁵ See CARB Letter, Attachment 'G'. "General Motors New Vehicle Predelivery Inspection Survey," January, 1979. This survey indicates that while 93% of the dealers performed drivability tests, only 13% actually performed functional (underhood) vehicle emission component checks. Also, Ford's letter (see footnote 48) indicated that only 78% of their dealers perform a complete PDI.

⁵⁶ Tr. 29, 206.

⁵⁷ CARB Hearing Tr. 106.

⁵⁸ CARB Hearing Tr. 129.

⁵⁹ 43 FR 1829 (January 12, 1978).

relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator must grant a waiver unless he finds that: (1) the determination of the State is arbitrary and capricious, (2) the State does not need the State standards to meet compelling and extraordinary conditions, or (3) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

In addition, once the State receives a waiver of Federal preemption for its standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption.¹ If the State acts to change a previously-waived accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it does not undermine the State's determination that its standards, in the aggregate, are as protective as comparable Federal standards, does not affect the technological feasibility of the State's requirements, and raises no new issues affecting the Administrator's previous waiver determinations.²

II. Discussion

In a February 13, 1980 letter to the Administrator, CARB notified EPA that it had adopted Assembly-Line Test (ALT) procedures for various classes of new motor vehicles for the 1981 model year.³ CARB also stated its belief that

the 1980 and 1981 model year ALT procedures are essentially the same, that changes from 1980 to 1981 are of a minor, technical nature, and that these 1981 changes are included within the scope of previous waivers of Federal preemption. I agree with CARB's judgment that these changes are included within the scope of previous waivers because they are not new, "initially-adopted" standards of enforcement procedures, present no new issues affecting my previous determinations with regard to California's standards and enforcement procedures, do not undermine California's "protectiveness in the aggregate" determination, and do not effect the technological feasibility of California's requirements.

The 1981 changes⁴ adopted on December 19, 1979, and the existing waivers⁵ which include them are as follows:

(i) Clarification of the "compelling reasons exception" to the pre-delivery inspection (PDI) rule of the Quality Audit test procedures.

The 1980 ALT procedures prohibit a manufacturer from correcting damages or maladjustments which have resulted from shipment of a vehicle to a remote testing facility until after the initial Quality Audit test,⁶ except for "compelling reasons". The 1981 amendments delete the words "compelling reasons" but expand and clarify the substance of the exception to ensure that the exception includes only defects which are easily recognizable to the average observer. This restriction now applies to every adjustment or

repair, whether a manufacturer performs it at a remote test facility or not. Previously, this restriction only applied to tests conducted at remote test facilities.

In addition, a manufacturer previously was required to report every adjustment or repair. The amendments now require the manufacturer to justify its adjustments and repairs, and delineate the information the manufacturer must report, such as the conditions and obvious symptoms of the vehicle and the reason for repair. These changes do not undermine the State's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, do not cause the State's requirements to be inconsistent with section 202(a) of the Act, and raise no new issues affecting the Administrator's previous waiver determinations, and therefore, are included within the previous waiver for the 1980 ALT procedures.

(ii) Clarification of the exception permitting repair of Quality Audit test vehicles if, subsequent to shipping from the assembly line, the manufacturer performs an identical repair on all of its California production vehicles.

The 1980 ALT procedures permitted repair of vehicles prior to performance of the Quality Audit test if the manufacturer has been performing the same corrections on all California vehicles subsequent to consignment for shipping from the assembly line. The 1981 change clarifies the language to make it clear that inspections and repairs by dealers or distributors will not suffice to allow repairs on Quality Audit vehicles. Since this change is only a clarification of an existing requirement it does not undermine California's protectiveness determination, and it raises no new issues of technological feasibility or other issues. Accordingly, it is included within the previous waiver for the 1980 ALT procedures.

(iii) Requirement that each manufacturer report all of its invalidated or aborted Quality Audit tests, the retest results, and the reasons explaining the necessity for the retest before CARB will permit the invalidations. Additionally, each manufacturer must report the applicable exhaust emission standard it has elected to meet by listing options selected, durability mileage used, and whether non-methane or total hydrocarbon standards apply.

The 1980 ALT procedures already obligate the manufacturers to provide some of the information required in the 1981 ALT procedures; however, the manufacturers were not meeting all the

Douglas M. Costle, Administrator, Environmental Protection Agency (EPA), February 13, 1980. CARB's ALT program involves emission-related testing and inspection of new production motor vehicles coming off manufacturer's assembly line.

⁴The 1981 procedures are set forth in Section 2059 of Title 13 of the California Administrative Code and in State of California Air Resources Board, "California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" (hereinafter "1981 ALT procedures").

⁵Most of the changes are included within the 1980 Assembly Line Test Procedures as set forth in Section 2058 of Title 13 of the California Administrative Code and in State of California Air Resources Board "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles". The entire 1980 procedures, along with amendments to the 1979 ALT procedures received a waiver of Federal preemption in an accompanying notice published in today's Federal Register. Change number (iv) below is included within the scope of a previously granted waiver.

⁶The Quality Audit test is one of three tests performed in Assembly-Line testing, and is a slightly modified version of a full certification test procedure. The ALT procedures require the manufacturers to Quality Audit test approximately two percent of their California production for each engine family produced.

¹ See 43 FR 36679, 36680 (1978).

² See 44 FR 61096, 61099-61101 (1979); see also, letter from Marvin B. Durning, Assistant Administrator for Enforcement, Environmental Protection Agency (EPA), to Thomas C. Austin, Executive Officer, California Air Resources Board (CARB), March 8, 1979.

³ Letter from Gary Rubenstein, Deputy Executive Officer, California Air Resources Board (CARB), to

1980 reporting requirements.⁷ Therefore, under these changes CARB now will not permit invalidation of any emission test result unless the manufacturer retests the vehicle and reports the reasons for invalidation. Additionally, since for the 1981 model year, a vehicle may meet any one of several emission standards to show compliance with the Quality Audit test procedure, a manufacturer must indicate the standards it is selecting, the durability mileage it has used, and whether it has taken non-methane or total hydrocarbon measurements. Because the manufacturers need only report the required information to comply with the amendments, they do not undermine the State's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, do not cause the State's requirements to be inconsistent with section 202(a) of the Act, and raise no new issues affecting the Administrator's previous waiver determinations; therefore, they are included within the previous waiver for California's 1980 ALT procedures.

(iv) Requirement that if a manufacturer uses a flame ionization detector (FID) to measure non-methane hydrocarbon (HC) emissions the manufacturer must supply the hexane equivalent conversion value for each different FID model it uses and for each engine family it tests.

In an accompanying notice, I have determined that California's adoption of a specific reference method utilizing a gas chromatograph combined with a flame ionization detector for determining compliance with the non-methane hydrocarbon standard falls within the scope of a previously granted waiver.⁸ In the past (and in the 1980 ALT procedures), EPA recommended and CARB used conversion factors to convert FID measurements of non-methane HC to non-dispersive infra-red (NDIR) measurements. CARB has concluded that the actual conversion factors, in fact, vary from CARB's and EPA's values;⁹ therefore, CARB is now requiring the manufacturers to obtain the actual conversion value after they obtain their test results. Since this requirement raises no new issues of technological feasibility, raises no new issues affecting the Administrator's previous waiver determinations, and through increased accuracy of

measurement will enhance the protectiveness of California's standards, it is included within the previous waivers for California's test procedures.

(v) Elimination of the Methane Content Correction Factor (MCCF) for Quality Audit testing. CARB's regulations now require engine families to meet the same HC standard they met during certification testing without application of the factor.

The 1980 ALT procedures provided a manufacturer with the option of applying a MCCF to its HC measurements, whether the manufacturer certified an engine family to the non-methane HC standard or the total HC standard. The 1981 changes eliminate this MCCF option, thereby requiring a manufacturer to meet the same standards it met during certification while using the appropriate instrumentation. Although the manufacturers may encounter some possible lead time problems in procuring HC instrumentation necessary to certify to the non-methane standard, CARB's regulations still provide the manufacturers with the option of certifying to either a total HC standard or a non-methane standard.¹⁰ Thus, the manufacturers are not required to purchase the non-methane HC instrumentation. Additionally, the MCCF was subject to certain inherent variability and inaccuracies; thus, its elimination will improve the reliability of HC measurements.¹¹ Since there do not appear to be potential technological feasibility problems, and since the increased accuracy of measurement will enhance the protectiveness of California's standards, this amendment is included within the previous waivers for the 1980 ALT procedures.

III. Finding and Decision

Accordingly, the California regulations addressed in this notice¹² need not independently meet the waiver criteria of Section 209(b)(1) and may be enforced by California at the expiration of 30 days (September 15, 1980) following publication of this notice unless a *bona fide* objection is filed.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that

this decision is of nationwide scope and effect.

Dated: August 8, 1980

Douglas M. Costle,
Administrator.

[FR Doc. 80-24558 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1570-5]

California State Motor Vehicle Pollution Control Standards; Amendments Within Previous Waivers of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted several changes to the California Exhaust Emission Standards and Test Procedures, for various classes of new motor vehicles, for 1979, 1980, 1981 and subsequent model years. I find these changes to be included within the scope of previously granted waivers of Federal preemption. Since the changes are included within previous waivers, a public hearing to consider them is unnecessary. However, if any party asserts a *bona fide* objection to these findings, a public hearing will be held to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings.

DATES: Any *bona fide* objection to the findings in this notice must be filed on or before September 15, 1980; otherwise, at the expiration of this 30-day period these findings will be deemed final. Upon the receipt of any timely objection a public hearing will be scheduled and announced in a subsequent Federal Register notice.

ADDRESS: Any *bona fide* objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the above standards and procedures at issue in this notice, as well as those documents used in arriving at this decision, are available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the

⁷ State of California Air Resources Board Staff Report "Public Hearing to Consider Proposed 1981 Assembly-Line Test Procedures" (hereinafter "Staff Report") November 19, 1979, p. 8.

⁸ See the accompanying notice published in today's Federal Register.

⁹ Staff Report, 5.

¹⁰ 1981 ALT procedures, p. 18.

¹¹ Staff Report, 12.

¹² California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, adopted December 19, 1979.

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT: Glenn Unterberger, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone 202-472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 209(a) of the Clean Air Act, as amended, 42 U.S.C. 7543(a) ("Act"), provides:

"No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator must grant a waiver unless he finds that: (A) the determination of the State is arbitrary and capricious, (B) the State does not need the State standards to meet compelling and extraordinary conditions, or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

As previous waiver decisions have explained, State standards or enforcement procedures are not consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to meet those requirements, giving appropriate considerations to cost of compliance within that time frame, or if the Federal and State test procedures impose inconsistent certification requirements.¹ California is the only state which meets section 209(b)(1)'s eligibility criteria for receiving waivers.

Once California has received a waiver of Federal preemption for its standards and enforcement procedures for a class

of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption.² If California adopts a change to a previously-waived standard or accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it does not cause California's standards, in the aggregate, to be less protective of public health and welfare than applicable Federal standards, does not cause California's requirements to be inconsistent with section 202(a) of the Act, and raises no new issues affecting the Administrator's previous waiver determinations.³

II. Discussion

In a May 30, 1979, letter to the Administrator,⁴ the California Air Resources Board (CARB) notified EPA that it had adopted several changes to the California Exhaust Emission Standards and Test Procedures for various vehicle classes for the 1979, 1980, 1981, and later model years. CARB also stated its belief that the changes are of a minor, technical nature and are included within the scope of waivers of Federal preemption already granted to California. I agree with CARB's judgment that these changes are included within the scope of previous waivers because they are not new standards or enforcement procedures, they present no new issues affecting my previous determinations with regard to California's standards and enforcement procedures, they do not cause the California standards, in the aggregate, to be less protective than applicable Federal standards, and they do not affect the technological feasibility of California's requirements of their consistency with Federal certification test requirements. The amendments, adopted on May 24, 1978, and on September 6, 1978, and the existing waivers in which they are included, are as discussed below:

(i) Adoption of a non-methane hydrocarbon (HC) test procedure for 1980 model year passenger cars and 1981 and subsequent model year

¹ See 43 FR 36679, 36680 (1978).

² See 44 FR 61096, 61099-61101 (1979); see also, letter from Marvin B. Durning, Assistant Administrator for Enforcement, Environmental Protection Agency (EPA), to Thomas C. Austin, Executive Officer, California Air Resources Board, March 8, 1979.

³ Letter from Thomas C. Austin, Executive Officer, California Air Resources Board, to Douglas M. Costle, Administrator, EPA, May 30, 1979 (hereinafter "CARB May 30, 1979 letter").

*passenger cars, light-duty trucks, and medium-duty vehicles.*⁵

In a notice published on June 14, 1978, EPA waived Federal preemption for California's non-methane hydrocarbon standard for these classes of vehicles, as well as for the method for determining compliance with that standard, provided that hydrocarbon emissions be measured with an analytical system which responds only to the non-methane fractions.⁶ CARB now has adopted a specific reference method utilizing a gas chromatograph combined with a flame ionization detector to measure the non-methane fraction, and allows equivalent methods to be used.⁷

This specific test procedure merely identifies a specific method for compliance with a test procedure requirement for which California already has received a waiver. It does not affect the stringency of the standard or raise any new issues affecting the previous waiver determination. This specific reference method therefore constitutes a test procedure covered by the June 14, 1978, waiver.

*(ii) Addition of warning signal requirement for exhaust gas sensor in allowable maintenance regulations for 1980 and 1981 and later model passenger cars, light-duty trucks, and medium-duty vehicles.*⁸

EPA waived Federal preemption on July 17, 1978, for California to enforce its allowable maintenance regulations.⁹ The regulations allow manufacturers to require replacement of exhaust gas sensors at 30,000 miles, and the May 24, 1978, California amendment requires manufacturers to provide an audible and/or visible signal to the driver if maintenance on this item is necessary. This requirement raises no new issues of technological feasibility of achieving applicable emission standards or of consistency in general with section 202(a) of the Act because it does not

⁵ State of California, Air Resources Board, "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978, incorporated by reference in "California Exhaust Emissions Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" (hereinafter "1980 Standards and Test Procedures") § 3(a), and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" (hereinafter "1981 Standards and Test Procedures"), § 3(a), as amended May 24, 1978.

⁶ 43 FR 25729, 25730, n. 7 (1978).

⁷ The gas chromatograph flame ionization procedure is recommended by SAE J 1151. Other acceptable methods are also described in SAE J 1151. "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978.

⁸ 1980 Standards and Test Procedures, § 3(f)(1)(i)(A)(5); 1981 Standards and Test Procedures, § 3(e)(1)(i)(A)(5).

⁹ 43 FR 32182 (1978).

¹ See, e.g., 43 FR 32182 (July 25, 1978).

impose any new emission control requirements on vehicles and requires little lead time or cost to implement.¹⁰ In addition, the requirement, if anything, will serve to increase the protectiveness of California's standards by increasing the likelihood that consumers will be aware of and act on the need for maintenance of an emission control component. Finally, the requirement does not raise any new issues affecting the previous waiver determinations. As a result, the warning signal requirement is included within the scope of the July 17, 1978, waiver.

(iii) *Requirement that each manufacturer submit a statement that the driveability and performance characteristics of vehicles for which certification is requested satisfy the manufacturer's own driveability and performance requirements, applicable to 1980, 1981 and later model year passenger cars, light-duty trucks, and medium-duty vehicles.*¹¹

On June 14, 1978, EPA waived Federal preemption for California to enforce its earlier adopted 1980 and 1981 and later model year passenger car standards and test procedures.¹² This May 24, 1978, amendment simply requires manufacturers to submit statements that their vehicles comply with their own driveability and performance criteria, and authorizes the Executive Officer of CARB to request from a manufacturer driveability data for vehicles demonstrating performance problems and to take appropriate enforcement action. There are no technological issues surrounding compliance with this requirement because it does not impose any new emission requirements on vehicles; rather, it merely requires the submittal of a statement by the manufacturers. For the same reason, it does not undermine California's previous determinations that its 1980 and later model year passenger car standards, in the aggregate, are as protective as applicable Federal standards. Nor does this requirement raise any new issues affecting the previous waiver determinations. Therefore, it is included within the scope of the previous waivers for California's standards and test procedures.

(iv) *Two-year postponement of 1.5 grams per vehicle mile (gpm) oxides of nitrogen (NO_x) standard for 1979 and 1980 model year four-wheel drive*

light-duty trucks under 4,000 pounds, with appropriate amendments to 1979 model year assembly-line test procedures.¹³

EPA waived Federal preemption for California to enforce its emission standards for 1979 and 1980 model light-duty trucks, including a 1.5 gpm NO_x standard, on January 12, 1978.¹⁴ CARB's postponement of the waived 1.5 gpm NO_x standard for 1979 and 1980 model light-duty trucks (LDTs) leaves in effect the model year 1978 NO_x standard of 2.0 gpm for these two years. Although this postponement affects the stringency of the standards, each California emission standard (i.e. for carbon monoxide (CO), HC and NO_x) for this vehicle class in these two model years remains more stringent than each corresponding Federal standard, and therefore does not affect California's determination that its own standards are at least as protective as Federal standards.¹⁵ The Delay is intended to permit the enlargement of the chassis of the LDT in this small class of vehicles to accommodate the larger catalysts needed to permit this LDT to comply with the more stringent NO_x standard.¹⁶ Since a waiver has already been granted California to enforce the more stringent NO_x standard of 1.5 gpm, California's lessening of the stringency presents no issues of technological feasibility. This amendment also raises no other new issues affecting the previous waiver determinations; therefore, it is included within the previous waiver for California's 1979 and 1980 LDT emissions standards.

(v) *Editorial and corrective changes to the standards and test procedures for*

¹⁰ Title 13, California Administrative Code, §§ 1959.5(a), 1960.0(a), and 2057, as amended September 7, 1978; "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles", § 4, as amended September 6, 1978; 1980 Standards and Test Procedures, § 4, as amended September 6, 1978.

¹⁴ 43FR 1829 (1978).

¹⁵ The California standards for 1979 and 1980 model year four-wheel drive light-duty trucks under 4,000 pounds with the requested postponement of the 1.5 NO_x standard are:

	HC:	CO:	NO _x :
0.41	Model year 1979-80	2.0	
0.39(0.41)	Model year 1980-80	2.0	

(*Beginning in 1980, the HC standard is expressed as a non-methane HC standard. HC standards in parentheses apply to total hydrocarbons, or, for 1980 models only, to emissions corrected by a methane content correction factor. 43 FR 1829, 1830 (1978).)

The Federal standards for the same vehicle class in these model years are: 1.7 gpm HC, 16 gpm CO and 2.3 gpm NO_x.

¹⁶ CARB May 30, 1979, letter at 6; "Hearing Officers Report Regarding American Motors Petition for Modification of Light-Duty Truck Emission Standards for 1979-1980 Model Years."

1980 and 1981 and later model passenger cars, light-duty trucks and medium-duty vehicles¹⁷ and to the standards and test procedures for 1980 and later model heavy-duty engines and vehicles.¹⁸

These changes consist merely of correcting and updating references, separating documentation, and reinstating items inadvertently omitted in earlier documents.¹⁹ Thus, they automatically are incorporated into the waiver for these vehicle classes.

III. Finding and Decision

Accordingly, the California amendments addressed in this notice²⁰ are included within the scope of waivers California already has received and may be enforced by California at the expiration of 30 days (September 15, 1980) following publication of this notice unless a *bona fide* objection is filed.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that

¹⁷ 1980 standards and Test Procedures, as amended May 24, 1978; 1981 Standards and Test Procedures, as amended May 24, 1978.

¹⁸ "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines", as amended May 24, 1978; "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Heavy-Duty Engines", as amended May 24, 1978.

¹⁹ See CARB May 30, 1979 letter, at 2, 5. Regarding the inadvertently omitted items, CARB explained that it had not included fuel filters and air filters in its list of allowable maintenance items from its earlier version of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles."

²⁰ Specifically, those regulations are the following: "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978, incorporated by reference in "California Exhaust Emissions Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1980 Standards and Test Procedures"] § 3(a), and in "California Exhaust Emissions Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1981 Standards and Test Procedures"] § 3(a), as amended May 24, 1978; 1980 Standards and Test Procedures, §§ 3(f)(i)(i)(A)(5), 5(g), and 3(f)(i)(ii), as amended May 24, 1978; 1980 Standards and Test Procedures, as amended May 24, 1978; 1981 Standards and Test Procedures, §§ 3(i)(i)(A)(5), 5(g) and 3(e)(i)(ii), as amended May 24, 1978; 1981 Standards and Test Procedures, as amended May 24, 1978; "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines", as amended May 24, 1978, and "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Heavy-Duty Engines", as amended May 24, 1978; Title 13, California Administrative Code, §§ 1959.5(a), 1960.0(a) and 2057, as amended September 7, 1978; "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles", § 4, as amended September 6, 1978; and 1980 Standards and Test Procedures, § 4, as amended September 6, 1978.

¹⁰ Before adopting this amendment, California already had been enforcing a similar warning signal requirement when a manufacturer schedules catalyst or exhaust gas recirculation maintenance.

¹¹ 1980 Standards and Test Procedures, § 5(g);

1981 Standards and Test Procedures, § 5(g).

¹² 43 FR 25729 (1978).

this decision is of nationwide scope and effect.

Dated: August 8, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-24559 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1568-8]

National Pollutant Discharge Elimination System (NPDES); Availability of Wastewater Treatment Manual (Treatability Manual)

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of technical information and request for comments.

SUMMARY: This notice announces the availability of the Treatability Manual. The Treatability Manual is a compilation of available information including: (1) Physical, chemical, biological and treatability data on the toxic or "priority" pollutants; (2) descriptive information on numerous industrial categories; (3) summaries of performance data on existing pollutant treatment technologies; (4) capital, operating and maintenance cost estimates for these treatment technologies; and (5) an executive summary to assist users. To enhance the quality of information in future supplements or revisions to the Treatability Manual, EPA also is providing a review and comment period.

DATES: Comments may be submitted at any time. However, to be considered for inclusion in the Manual's first scheduled annual supplement or revision, comments must be received on or before April 1, 1981.

ADDRESSES: Interested persons may obtain a copy of the Treatability Manual after September 15, 1980 by requesting publication stock number 055-000-00190-1 from the Superintendent of Documents, U.S. Government Printing Office, Department 50, Washington, D.C. 20402. The price of the Manual is \$47.00. The Treatability Manual is available for examination at the following EPA Regional Offices, Laboratories and State Offices after September 1, 1980:

EPA Regions

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Library, EPA Region I, Twenty-first Floor, JFK Building, Boston, Massachusetts 02203, (617) 223-5791

Librarian, Environmental Research Laboratory, U.S. EPA, South Ferry Road, Narragansett, Rhode Island 02882, (401) 789-1071

Region II

(New Jersey, New York, Puerto Rico, Virgin Islands)
Water Permits Branch, EPA Region II, Room 845, 26 Federal Plaza, New York, New York 10278, (212) 264-9895

Region III

(Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia)
Library, EPA Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0580

Region IV

(Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky)
Library, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, (404) 881-4216
Chris L. West, Office of Public Awareness, Environmental Research Center, Room M-306, U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541-4577
Robert C. Ryans, Environmental Research Laboratory, U.S. EPA, College Station Road, Athens, Georgia 30613, (404) 546-3306
Andre Lowery, Librarian, Environmental Research Laboratory, U.S. EPA, Sabine Island, Gulf Breeze, Florida 32561, (904) 932-5311 Ext. 218

Region V

(Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota)
Ms. Lou W. Tilley, Librarian, Library, EPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 353-2022
Library, Environmental Research Laboratory, U.S. EPA, 6201 Congdon Blvd., Duluth, Minnesota 55804, (218) 727-6692
Office of Public Affairs, Environmental Research Laboratory, U.S. EPA, 26 W. St. Clair Street, Cincinnati, Ohio 45268, (513) 684-7771

Region VI

(Arkansas, Louisiana, Oklahoma, Texas, New Mexico)
Oscar Cabra, EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-4375
Marvin L. Wood, Robert S. Kerr Environmental Research Laboratory, U.S. EPA, Ada, Oklahoma 74820, (405) 332-8800

Region VII

(Iowa, Kansas, Missouri, Nebraska)

Library, EPA Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3497

Region VIII

(Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota)
Delores Eddy, Librarian, EPA Region VIII, Room 101, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2560

Region IX

(Arizona, California, Nevada, Hawaii)
Permits Branch, EPA Region IX, 215 Fremont Street, San Francisco, California 94111, (415) 556-3454
Office of Environmental Quality, City Hall, 400 East Stewart Street, Las Vegas, Nevada 89101, (702) 386-6277

Region X

(Alaska, Idaho, Oregon, Washington)
Harold Geren, EPA Region X, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1348
Public Information Office, Room 101, Environmental Research Laboratory, U.S. EPA, 200 SW 35th Street, Corvallis, Oregon 97330, (503) 757-4600

States and Territories

Alabama

Alabama Water Improvement Commission, Perry Hill Office Park, 3815 Interstate Court, Montgomery, Alabama 36109, (205) 277-3630

Alaska

Alaska Operation Office, EPA, Room E-535, Federal Building, 701 C Street, Anchorage, Alaska 99513, (907) 271-5083

American Samoa

Pati Faiai, Executive Secretary, Environmental Quality Commission, Pago Pago, American Samoa 96920

Arizona

Will Gilbert, Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007, (602) 255-1277

Arkansas

John Ward, Arkansas Department of Pollution, Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, (501) 371-1701

California

Edward C. Anton, California State Water Resources Control Board, 1416 9th Street, Room 631, Sacramento, California 95801, (916) 322-3133